

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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TRACEY GIARDINI, CRAIG GIARDINI,
and CRAIGS CAR CARE CENTER,

Plaintiffs.

v.

Adv. Pro. No.: 15-08013-ast
Chapter 7

THE BANKRUPTCY ESTATE OF
CENTEREACH DEV. CORP.,
GULF OIL LIMITED PARTNERSHIP,
and CUMBERLAND FARMS, INC.,

Defendants.

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In re:

A & B MART & SERVICE, INC.
BOHEMIA DEVELOPMENT CORP.
CENTEREACH DEVELOPMENT CORP.
CORAM ASSOCIATES CORP.
HAUPPAUGE DEVELOPMENT CORP.
NORTHPORT ENTERPRISES INC.
VALLEY STREAM ENTERPRISES INC.

Case No.: 15-70118-ast
Case No.: 15-70119-ast
Case No.: 15-70120-ast
Case No.: 15-70121-ast
Case No.: 15-70122-ast
Case No.: 15-70123-ast
Case No.: 15-70124-ast

Debtors.

(Jointly Administered)

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ORDER DISMISSING COMPLAINT AND SEVERING COUNTERCLAIMS

WHEREAS, on January 26, 2015 Plaintiffs Tracy Giardini, Greg Giardini and Craigs Car Care filed a complaint (the “Complaint”) commencing the above-captioned adversary proceeding [dkt item 1]; and

WHEREAS, on June 24, 2015 Defendant the Bankruptcy Estate of Centereach Development Corp. filed and answer to the Complaint asserting various counterclaims (the “Counterclaims”) against the Plaintiffs [dkt item 16]; and

WHEREAS, On June 24, 2015, defendants Gulf Oil Limited Partnership and Cumberland

Farms, Inc. (“Gulf Defendants”) responded to the Complaint [dkt item 17]; and

WHEREAS, on June 29, 2015, Plaintiffs filed an answer to the Counterclaims [dkt item 18]; and

WHEREAS, in light of the sale of assets of the Debtor on or about June 18, 2015 pursuant to Order of this Court, the Complaint is now moot; and

WHEREAS, on August 4, 2015, Gulf Defendants filed a motion to dismiss the Complaint (the “Motion”) [dkt items 22 & 23]. The Motion was brought by notice of presentment pursuant to this Court’s published procedures, and was served upon the Plaintiffs. The Plaintiffs’ deadline to file a responsive pleading was August 21, 2015; and

WHEREAS, as of August 24, 2015, Plaintiffs failed to respond to the Motion; and

WHEREAS, on August 25, 2015, the Court entered an order closing the pleadings with respect to the Motion and as a result, the Motion was deemed on submission with the Court [dkt item 25]; and

WHEREAS, on October 6, 2015 the Court conducted a pre-trial conference in connection with this adversary proceeding; and


IT IS HEREBY;

ORDERED, that the Complaint is hereby dismissed with prejudice as to the Bankruptcy Estate of Centereach Development Corp. and the Gulf Defendants; and it is further

ORDERED, that the Counterclaims of Defendant the Bankruptcy Estate of Centereach Development Corp. are hereby severed from the Complaint and shall continue as independent causes of action against the Plaintiffs.

Dated: October 21, 2015
Central Islip, New York




Alan S. Trust
United States Bankruptcy Judge